

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



29 September 2026

Case Document No. 6

Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy
Complaint No. 258/2026

REPLY BY THE GOVERNMENT TO THE SAESE'S RESPONSE ON ADMISSIBILITY

Registered at the Secretariat on 11 September 2026



Avvocatura Generale dello Stato

L'AGENTE DEL GOVERNO ITALIANO
THE AGENT OF THE ITALIAN GOVERNMENT
L'AGENT DU GOUVERNEMENT ITALIEN

European Committee of Social Rights (ECSR)

Collective complaint no. 258/26

Sindacato Autonomo Europeo Scuola ed Ecologia (SAESE) v. Italy

**REPLIES OF THE ITALIAN GOVERNMENT
ON ADMISSIBILITY OF COLLECTIVE COMPLAINT**

Our reference: CT 11339-26

Avv. M. Polli – Proc. V. Pilloni – Proc. A. D’Onofrio

I. INTRODUCTION

1. By letter dated 5 August 2026, the Secretariat of the Directorate-General for the European Social Charter requested the Italian Government to submit its response to the clarifications made by the Autonomous European Trade Union for Education and Ecology (SAESE) (“the complainants”) regarding the Government’s further observation on the admissibility of the complaint.

2. In response to this request, these replies are intended to challenge the admissibility of the complaint.

II. REPLIES ON THE ADMISSIBILITY.

3. In response to the clarifications submitted by the complainants on 30 July 2026, it is confirmed that the complaint is inadmissible **as the complainant lacks sufficient representativeness.**

4. In its clarifications, SAESE submits that: (1) the self-certification lodged together with the complaint should be deemed sufficient to attest to the Union’s current membership strength, as it is consistent with the certification of the Organisation’s online membership records submitted in support of Collective Complaint No. 194/2020; (2) the ARAN tables produced by the Government are irrelevant for the purposes of assessing representativeness, as they merely record public employees who have opted for payroll deductions of trade union contributions, whereas SAESE operates an independent system of direct online membership registration; and (3) the Government’s position is inconsistent insofar as it acknowledges SAESE at the domestic level while denying it recognition at the international level, challenging at the same time the limitations which it seeks to introduce with regard to the causal nexus.

5. The Government replies to these submissions as follows.

6. As regards the first point, as already stated in its previous written observations, the Government maintains that the self-certification produced cannot be regarded as sufficient evidence of the trade union’s actual current membership strength. Nor can this objection be considered overcome by reference to the documentation submitted in support of a collective complaint dating back to 2020. The period of time that has elapsed does not permit the presumption that the data documented at that time remain valid.

7. In any event, the Government reiterates that the certification filed on that occasion was not considered sufficient by the Committee to establish the complainant organisation's actual representativeness. Indeed, that complaint was likewise declared inadmissible.

8. Furthermore, in this connection, it should be recalled that the section entitled "Strike Dashboard" on the institutional website of the Department of Public Administration publishes industrial action proclaimed within the public sector, a sector in which SAESE, as previously explained, lacks any representativeness whatsoever.

9. In the public sector, representativeness is determined exclusively by ARAN pursuant to Article 43(1) of Legislative Decree No. 165 of 30 March 2001, which provides as follows: "*ARAN shall admit to national collective bargaining those trade union organisations which, within the relevant sector or area, attain a level of representativeness of not less than 5 per cent, calculated as the average of the membership data and the electoral data. Membership data shall be expressed as the percentage of mandates for the deduction of trade union contributions in relation to the total number of mandates issued within the sector concerned. Electoral data shall be expressed as the percentage of votes obtained in elections for unitary staff representative bodies in relation to the total number of votes cast within the sector concerned*"¹.

10. According to the data published by ARAN, SAESE does not hold any trade union mandates and, by its own admission, has never submitted candidates in elections for the three-year renewal of the RSU representative bodies. It therefore lacks representativeness within the sector concerned.

11. Any other form of membership registration, including online registration, and any certification relating thereto, is devoid of legal relevance within the system of industrial relations governing public administrations. Consequently, any claim as to representativeness must be regarded as merely presumptive and self-certified, since it does not derive from objective data.

¹ L'ARAN ammette alla contrattazione collettiva nazionale le organizzazioni sindacali che abbiano nel comparto o nell'area una rappresentatività non inferiore al 5 per cento, considerando a tal fine la media tra il dato associativo e il dato elettorale. Il dato associativo è espresso dalla percentuale delle deleghe per il versamento dei contributi sindacali rispetto al totale delle deleghe rilasciate nell'ambito considerato. Il dato elettorale è espresso dalla percentuale dei voti ottenuti nelle elezioni delle rappresentanze unitarie del personale, rispetto al totale dei voti espressi nell'ambito considerato.

12. **As regards the second point**, the Government considers it appropriate to emphasise that, within the Italian public sector, the sole channel for the collection of trade union contributions for the purpose of measuring trade union representativeness consists of the mandates issued by employees to their respective public administrations, as expressly provided by Article 43(7) of Legislative Decree No. 165 of 30 March 2001, which states: *“The collection of data concerning votes and mandates shall be ensured by ARAN. Data relating to mandates granted to each administration during the relevant year shall be collected and transmitted to ARAN not later than 31 March of the following year by the public administrations concerned, countersigned by a representative of the trade union organisation concerned, in a manner ensuring the confidentiality of the information (...)”*². Representativeness is furthermore determined on the basis of the support received in elections to the RSU bodies (through a weighted average of the two indicators, up to the threshold of 5%), elections in which SAESE, by its own admission, has never deemed it appropriate to participate.

13. In this regard, under the Italian legal framework, the concept of representativeness in the public sector cannot be construed independently from the threshold established by Article 43, since only trade union organisations meeting that threshold are entitled to participate in collective bargaining and to enjoy trade union facilities and prerogatives.

14. Consequently, failure to attain the minimum threshold established by law precludes participation in collective bargaining negotiations and prevents the signing of national collective labour agreements.

15. This circumstance appears decisive for the purposes of the present examination, as the Committee has repeatedly made clear that, in assessing the representativeness of a complainant trade union, decisive weight must be attached to its ability to negotiate collective agreements.

16. Furthermore, the considerations set out **in the third point of the clarifications** provided cannot be upheld.

² “La raccolta dei dati sui voti e sulle deleghe è assicurata dall'ARAN. I dati relativi alle deleghe rilasciate a ciascuna amministrazione nell'anno considerato sono rilevati e trasmessi all'ARAN non oltre il 31 marzo dell'anno successivo dalle pubbliche amministrazioni, controfirmati da un rappresentante dell'organizzazione sindacale interessata, con modalità che garantiscano la riservatezza delle informazioni”.

17. The documentation produced to demonstrate SAESE's involvement in the appointment of RSU Electoral Commissions does not constitute sufficient evidence of the complainant's representativeness, as it provides no proof whatsoever of the effective promotion and protection of workers' interests.

18. As regards the considerations advanced in relation to the so-called "collective nexus", it should be recalled that, in the case of strikes proclaimed in the public sector, the Department of Public Administration, in accordance with the provisions of Law No. 146 of 1990, discharges its obligations of mere notification to the public by publishing the industrial action proclaimed by trade union organisations on its institutional website, under the section entitled "*Strike Dashboard in the Public Sector*".

19. Such publication is intended to enable the public administrations concerned to organise the minimum essential services and to ensure that users are fully informed of the timing and modalities of the strike action. It is not intended to publicise the strike in the interests of the trade union organisation proclaiming it.

20. In the light of the foregoing considerations, the Italian Government accordingly reiterates its request that the complaint lodged by SAESE be declared inadmissible on account of the complainant organisation's lack of representativeness.

III. CONCLUSIONS

21. The complaint is inadmissible as it has been lodged by a subject that cannot be regarded as a representative trade union within the meaning of Article 1(c) of the Protocol and, in any event, because the link between the situation complained of and the material scope of application of the provisions of the Charter relied upon has not been sufficiently clarified and, therefore, demonstrated (Article 4 of the Protocol).

Rome, 11 September 2026

Drafted by

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